

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LASHAWN PETTUS-BROWN,

Plaintiff,

vs.

**Case No.: 2:18-cv-83
JUDGE GEORGE C. SMITH
Magistrate Judge Deavers**

STATE OF OHIO,

Defendant.

ORDER

On February 1, 2018, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's Motion for Leave to Proceed In Forma Pauperis be denied and Plaintiff's Complaint be dismissed without prejudice to paying the requisite filing fee. (Doc. 2). On March 14, 2018, this Court issued a Recommittal Order for further consideration of this case. (Doc. 7). Following recommittal, the Magistrate Judge issued a new *Report and Recommendation* on March 21, 2018, recommending that Plaintiff's Complaint be dismissed pursuant to Section 1915(e)(2) for failure to assert a claim upon which relief may be granted. (*See Report and Recommendation*, Doc. 8).

The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objections to the *Report and Recommendation*. (*See* Doc. 12). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In his objections, Plaintiff contends that dismissal is unnecessary as the errors will be corrected with his Amended Complaint, which Plaintiff has filed. He asserts that his Amended

Complaint now names the individuals and he is suing them in their official capacity. However, the individuals Plaintiff is attempting to now name in this suit via his Amended Complaint are Hamilton County Prosecutors Joseph Deters and Andrew Berghausen. (*See* Doc. 13). Allowing Plaintiff's Amended Complaint to proceed would be futile as the prosecutors are entitled to absolute immunity under § 1983 when acting "within the scope of his duties in initiating and pursuing a criminal prosecution." *Adams v. Hanson*, 656 F.3d 397, 401 (6th Cir. 2011).

Therefore, for the reasons stated above and as set forth in detail in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**.

The *Report and Recommendation*, Document 8, is **ADOPTED** and **AFFIRMED**. Plaintiff's Complaint is hereby **DISMISSED** for failure to state a claim. Additionally, Plaintiff's Motion to Stay Proceedings (Doc. 11) is **DENIED AS MOOT**.

The Clerk shall remove Documents 1, 6, 8, and 11 from the Court's pending motions list. The Clerk shall terminate this case.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT